

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HOWARD WOMACK,

Plaintiff,

vs.

HOME DEPOT U.S.A., INC.,
RANDALL-PAULSON ARCHITECTS, INC.,
ABRAMS CONSTRUCTION, INC.,
CALEAST HD LIMITED, L.P.,
CALEAST HD, L.L.C.,
FOUNDATION CONTRACTORS, INC.,
EQUIPMENT DEPOT, INC.,
TRAMMELL CROW COMPANY
TRAMMELL CROW DEVELOPMENT AND
CONSTRUCTION SERVICES GROUP,
TC HD DEVELOPMENT, L.L.C.,
TRAMMELL CROW DALLAS INDUSTRIAL
DEVELOPMENT, INC.,
TRAMMELL CROW DEVELOPMENT
COMPANY, INC.
TRAMMELL CROW CONSTRUCTION
COMPANY, and
TRAMMELL CROW DFW DEVELOPMENT,
INC.,

Defendants.

DSO 11811

3-07 CV 0967-N

CIVIL ACTION NO. _____

1555/4

NOTICE OF REMOVAL

Defendant Home Depot U.S.A., Inc. ("Home Depot"), for the purpose only of removing this cause to the United States District Court for the Northern District of Texas, Dallas Division, states:

1. **State Court Action.** This lawsuit to recover personal injury damages against Home Depot and other Defendants was filed by Plaintiff on December 20, 2006, in the County Court of Law No. 3 of Dallas County, Texas, in an action entitled *Howard Womack vs. Home Depot USA, Inc., Randall-Paulson Architects, Inc., Abrams Construction, Inc., Caleast HD*

Limited, LP, Caleast HD, LLC, Foundation Contractors, Inc., Equipment Depot, Inc., Trammell Crow Company, Trammell Crow Development and Construction Services Group, TC HD Development, LLC a/k/a Trammell Crow Home Depot Development, LLC, Trammell Crow Dallas Industrial Development, Inc., Trammell Crow Development Company, Inc., Trammell Crow Construction Company and Trammell Crow DFW Development, Inc., Cause No. 06-18354-C (hereinafter referred to as the “State Court Action”).

2. **Notice Timely Filed.** The State Court Action was filed on December 20, 2006. Home Depot first obtained written documentation showing that there was complete diversity of citizenship amongst the parties on May 1, 2007. Based on the allegations and claims contained in Plaintiff’s Complaint, the amount in controversy exceeds \$75,000. This Notice of Removal, therefore, is timely filed within thirty (30) days of Home Depot’s first notice that this Court has jurisdiction over the subject matter of this case under 28 U.S.C. § 1446(b).

3. **Diversity Jurisdiction—Diversity of Citizenship.**

a. Plaintiff at all times relevant to this lawsuit has been a resident of Dallas County, Texas, and is a citizen of the State of Texas.

b. Both now and at the time this action was commenced, Home Depot has been a corporation incorporated under the laws of the State of Delaware with its principal office and place of business located in Atlanta, Georgia. Home Depot, therefore, is a citizen of the States of Delaware and Georgia.

c. Both now and at the time this action was commenced, Randall-Paulson Architects, Inc., has been a corporation incorporated under the laws of the State of Georgia with its principal office and place of business located in Georgia. Randall-Paulson Architects, Inc., therefore, is a citizen of the State of Georgia.

d. Both now and at the time this action was commenced, Abrams Construction, Inc., has been a corporation incorporated under the laws of the State of Georgia with its principal office and place of business located in Georgia. Abrams Construction, Inc., therefore, is a citizen of the State of Georgia.

e. Both now and at the time this action was commenced, CalEast HD Limited, LP, has been a limited partnership under the laws of the State of Delaware with its principal office and place of business located in Illinois. CalEast HD Limited, LP, therefore, is a citizen of the States of Delaware and Illinois.

f. Both now and at the time this action was commenced, CalEast HD, LLC, has been a limited liability corporation incorporated under the laws of the State of Delaware with its principal office and place of business located in Illinois. CalEast HD, LLC., therefore, is a citizen of the States of Delaware and Illinois.

g. Both now and at the time this action was commenced, Foundation Contractors, Inc., has been a corporation incorporated under the laws of the State of Delaware with its principal office and place of business located in Georgia. Foundation Contractors, Inc., therefore ,is a citizen of the States of Delaware and Georgia.

h. Both now and at the time this action was commenced, TC HD Development, LLC, has been a corporation incorporated under the laws of the State of Delaware with its principal office and place of business located in Georgia. TC HD Development, LLC, therefore, is a citizen of the States of Delaware and Georgia.

i. Equipment Depot, Inc., based on information and belief, is a Texas corporation. However, Plaintiff fraudulently joined Equipment Depot to defeat diversity jurisdiction. It is alleged that Equipment Depot was the entity responsible for maintaining forklifts at the facility in question at the time of plaintiff's accident. However, Equipment Depot is not a proper party

to this lawsuit as it was not responsible for forklift maintenance at the time of plaintiff's accident. Kelly Kunka, a representative of Equipment Depot, Inc. has provided a declaration that Equipment Depot, Inc. was not providing service or maintenance to forklifts at the facility at the time of plaintiff's accident and did not first begin to provide forklift maintenance at the facility until August of 2005. [See Declaration of Kelly Kunka, attached hereto as Exhibit "B."]

j. Trammell Crow Company is a Delaware corporation with its principal place of business in Texas. However, Plaintiff fraudulently joined Trammell Crow Company to defeat diversity jurisdiction, alleging Trammell Crow Company was the developer of the facility in question. However, Trammell Crow Company was not the developer of the facility and had no contractual or other agreement with Home Depot relating to the facility in question. [See Declaration of Patrick Henry, attached hereto as Exhibit "C."] As Trammell Crow Company was not the developer of the facility in question and had no contractual relationship with Home Depot pertaining to the facility, it is not a proper party to this lawsuit.

k. Trammell Crow Development and Construction Services Group is Texas entity. However, Plaintiff fraudulently joined Trammell Crow Development and Construction Services Group to defeat diversity jurisdiction, alleging Trammell Crow Development and Construction Services Group was the developer of the facility in question. However, Trammell Crow Development and Construction Services Group was not the developer of the facility and had no contractual or other agreement with Home Depot relating to the facility in question. [See Declaration of Patrick Henry, attached hereto as Exhibit "C."] As Trammell Crow Development and Construction Services Group was not the developer of the facility in question and had no contractual relationship with Home Depot pertaining to the facility, it is not a proper party to this lawsuit.

l. Trammell Crow Dallas Industrial Development, Inc. is a Delaware corporation with its principal place of business in Texas. However, Plaintiff fraudulently joined Trammell Crow Dallas Industrial Development, Inc. to defeat diversity jurisdiction, alleging Trammell Crow Dallas Industrial Development, Inc. was the developer of the facility in question. However, Trammell Crow Dallas Industrial Development, Inc. was not the developer of the facility and had no contractual or other agreement with Home Depot relating to the facility in question. [See Declaration of Patrick Henry, attached hereto as Exhibit "C."] As Trammell Crow Dallas Industrial Development, Inc. was not the developer of the facility in question and had no contractual relationship with Home Depot pertaining to the facility, it is not a proper party to this lawsuit.

m. Trammell Crow Development Company, Inc. is a Texas corporation. However, Plaintiff fraudulently joined Trammell Crow Development Company, Inc. to defeat diversity jurisdiction, alleging Trammell Crow Development Company, Inc. was the developer of the facility in question. However, Trammell Crow Development Company, Inc. was not the developer of the facility and had no contractual or other agreement with Home Depot relating to the facility in question. [See Declaration of Patrick Henry, attached hereto as Exhibit "C."] As Trammell Crow Development Company, Inc. was not the developer of the facility in question and had no contractual relationship with Home Depot pertaining to the facility, it is not a proper party to this lawsuit.

n. Trammell Crow Construction Company is a Texas corporation. However, Plaintiff fraudulently joined Trammell Crow Construction Company to defeat diversity jurisdiction, alleging Trammell Crow Construction Company was the developer of the facility in question. However, Trammell Crow Construction Company was not the developer of the facility and had no contractual or other agreement with Home Depot relating to the facility in question.

[See Declaration of Patrick Henry, attached hereto as Exhibit "C."] As Trammell Crow Construction Company was not the developer of the facility in question and had no contractual relationship with Home Depot pertaining to the facility, it is not a proper party to this lawsuit.

o. Trammell Crow DFW Development, Inc. is a Delaware corporation with its principal place of business in Texas. However, Plaintiff fraudulently joined Trammell Crow DFW Development, Inc. to defeat diversity jurisdiction, alleging Trammell Crow DFW Development, Inc. was the developer of the facility in question. However, Trammell Crow DFW Development, Inc. was not the developer of the facility and had no contractual or other agreement with Home Depot relating to the facility in question. [See Declaration of Patrick Henry, attached hereto as Exhibit "C."] As Trammell Crow DFW Development, Inc. was not the developer of the facility in question and had no contractual relationship with Home Depot pertaining to the facility, it is not a proper party to this lawsuit.

4. **Diversity Jurisdiction—Amount in Controversy.** The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. This Court has original jurisdiction over this action under 28 U.S.C. § 1332. Venue is proper in this Court under 28 U.S.C. § 1441(a). This civil action is one that may be removed by Home Depot pursuant to 28 U.S.C. § 1446 since the Court has original jurisdiction over Plaintiffs' claims.

6. **State Court Documents Attached.** Attached hereto as Exhibit "D" are the documents from the state court action as required by 28 U.S.C. § 1446.

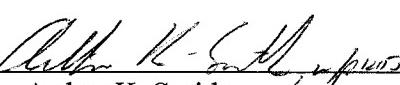
7. **Consent to Removal.** Randall-Paulson Architects, Inc., Abrams Construction, Inc., Caleast HD Limited, LP, Caleast HD, LLC, Foundation Contractors, Inc., TC HD Development, LLC, the only other proper Defendants served in this cause of action, have each consented to removal. A copy of the consents to removal are attached hereto as Exhibit "E."

8. **Jury Trial.** Home Depot demands a trial by jury.

9. **Notice to State Court.** On this date, a copy of this notice of removal was filed with the clerk of the state court where this cause has been pending. Home Depot has also given adverse parties written notices of this notice of removal as required by 28 U.S.C. § 1446(d).

10. **Relief Requested.** Home Depot respectfully requests that the United States District Court for the Northern District of Texas, Dallas Division, accept this notice of removal and that it assume jurisdiction of this cause and issue all such further orders and process as may be necessary to bring before it all parties necessary for the trial hereof.

Respectfully submitted,

By: 
Arthur K. Smith

Attorney-in-Charge
Texas State Bar No. 18534100

LAW OFFICES OF ARTHUR K. SMITH,
a Professional Corporation
507 Prestige Circle
Allen, Texas 75002
Telephone: (469) 519-2500
Facsimile: (469) 519-2555

ATTORNEYS FOR DEFENDANT
HOME DEPOT U.S.A., INC.

CERTIFICATE OF SERVICE

On the 31st day of May, 2007, a true and correct copy of the above and foregoing pleading was forwarded to all counsel via certified mail, return receipt requested:

Eric H. Marye
Law Offices of Eric H. Marye & Associates, P.C.
5910 N. Central Expwy., Suite 750
Dallas, TX 75206
Counsel for Plaintiff

Richard A. Capshaw
Deke D. Owen
Capshaw & Associates
3031 Allen St., Suite 200
Dallas, TX 75204
Counsel for Defendant Randall-Paulson Architects

Hamp Moody, III
Matthew J. Kita
Quilling Selander Cummiskey & Lownds
2001 Bryan St., Suite 1800
Dallas, TX 75201
Counsel for Defendant Foundation Contractors, Inc.

B. Lance Vincent
Ritcheson, Lauffer, Vincent & Dukes, P.C.
3301 Golden Rd., Suite 400
Tyler, TX 75701
Counsel for Defendant Equipment Depot, Inc.

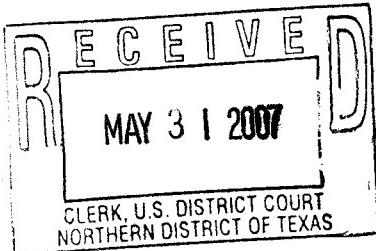
Paul W. Bennett
Fletcher & Springer, L.L.P.
8750 N Central Expwy., Suite 160
Dallas, TX, 75231
Counsel for Defendants Trammell Crow Company, et al.

Samuel J. Polak
State Bar No. 00788210
Payne & Blanchard, L.L.P.
Plaza of the Americas
700 N. Pearl St., Suite 500, LB 393
Dallas, TX 75201-7471
Counsel for Defendant Abrams Construction, Inc.



Arthur K. Smith, Esq.
Arthur K. Smith

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United States District Court
Northern District of Texas
Dallas Division

3 - 07 CV 0967 - N

ORIGINAL

Supplemental Civil Cover Sheet For Cases Removed
From State Court

This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk's Office. Additional sheets may be used as necessary.

1. State Court Information:

Please identify the court from which the case is being removed and specify the number assigned to the case in that court.

<u>Court</u>	<u>Case Number</u>
County Court at Law No. 3, Dallas County	06-18354-C

2. Style of the Case:

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code.)

<u>Party and Party Type</u>	<u>Attorney(s)</u>
Howard Womack <i>Plaintiff</i>	Eric H. Marye State Bar No. 24004798 Law Offices of Eric H. Marye & Associates, P.C. 5910 N. Central Expwy., Suite 750 Dallas, TX 75206 Telephone: (214) 987-8240 Facsimile: (214) 987-8241

Home Depot U.S.A., Inc.
Defendant

Arthur K. Smith
State Bar No. 18534100
LAW OFFICES OF ARTHUR K. SMITH,
a Professional Corporation
507 Prestige Circle
Allen, TX 75002
Telephone: (469) 519-2500
Facsimile: (469) 519-2555

Randall-Paulson
Architects, Inc.
Defendant

Richard A. Capshaw
State Bar No. 18534100
Capshaw & Associates
3031 Allen St., Suite 200
Dallas, TX 75204
Telephone: (214) 761-6610
Facsimile: (214) 761-6611

Abrams Construction, Inc.
Defendant

Samuel J. Polak
State Bar No. 00788210
Payne & Blanchard, L.L.P.
Plaza of the Americas
700 N. Pearl St., Suite 500, LB 393
Dallas, TX 75201-7471
Telephone: (214) 953-1313
Facsimile: (214) 220-0439

Foundation Contractors, Inc.
Defendant

Matthew J. Kita
State Bar No. 24050883
James H. Moody, III
State Bar No. 03820050
Quilling Selander Cummiskey & Lownds
2001 Bryan St., Suite 1800
Dallas, TX 75201
Telephone: (214) 871-2100
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Caleast HD Limited, LP
Defendant

Arthur K. Smith
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LAW OFFICES OF ARTHUR K. SMITH,
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Telephone: (469) 519-2500
Facsimile: (469) 519-2555

Caleast HD, LLC
Defendant

Arthur K. Smith
State Bar No. 18534100
LAW OFFICES OF ARTHUR K. SMITH,
a Professional Corporation
507 Prestige Circle
Allen, TX 75002
Telephone: (469) 519-2500
Facsimile: (469) 519-2555

TCHD Development, LLC
Defendant

Paul W. Bennett
State Bar No. 00787071
Fletcher & Springer, L.L.P.
8750 N Central Expwy., Suite 1600
Dallas, TX, 75231
Telephone: (214) 987-9600
Facsimile: (214) 987-9866

3. Jury Demand:

Was a Jury Demand made in State Court? X Yes No

If "Yes," by which party and on what date?

Plaintiff
Party

December 20, 2006
Date

4. Answer:

Was an Answer made in State Court? X Yes No

If "Yes," by which party and on what date?

<u>Party</u>	<u>Date</u>
Home Depot U.S.A., Inc	2-6-07
Randall-Paulson Architects, Inc.	1-16-07
Abrams Construction, Inc.	1-9-07
Foundation Contractors, Inc.	1-22-07
Caleast HD Limited, LP	3-12-07

Caleast HD, LLC 3-12-07

TCHD Development, LLC 1-19-07

5. Unserved Parties:

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason(s) for No Service</u>
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None.

6. Nonsuited, Dismissed or Terminated Parties:

Please indicate any changes from the style on the State Court papers and the reason for that change:

<u>Party</u>	<u>Reason</u>
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None.

7. Claims of the Parties:

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
Plaintiff	Personal Injury Negligence Under Premises Liability Theory
Defendants	Deny All Claims

MAY 31 2007

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

CLERK U.S. DISTRICT COURT

I. (a) PLAINTIFFS

Howard Womack

3-07-cv-0967-N

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Dallas

DEFENDANTS

Home Depot U.S.A., Inc., et al.

ORIGINAL

(c) Attorney's (Firm Name, Address, and Telephone Number)

Eric H. Marge, Attorney at Law, 5910 N. Central Expy.,
Suite 750, Dallas, TX 75206 (214) 987-8240County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

Cobb County,

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

Arthur K. Smith, Law Offices of Arthur K. Smith,
507 Prestige Circle, Allen, TX 75002 (469) 519-2500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	PTF	DEF
X 1	<input type="checkbox"/>	1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 520 Copyrights	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 893 Environmental Matters
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	FEDERAL TAX SUITS	
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause: Personal Injury

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$1,000,000+

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes NoVIII. RELATED CASE(S)
PENDING OR CLOSED

(See instructions):

JUDGE

Fitzwater

DOCKET NUMBER 3:06-cv-285D

DATE

SIGNATURE OF ATTORNEY OF RECORD

Arthur K. Smith, Esq.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE